THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 15159 of 2007

DATE: 18-07-2007

Between :

Smt. Sri Ramineni Jayaprada

… Petitioners

And

The Commissioner,
Department of Endowments,
Andhra Pradesh,
Thilak Nagar,
Hyderabad and 3 others.

… Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 15159 of 2007

ORDER:

This writ petition is filed seeking a declaration that the action of the respondents in seeking to evict the petitioner from the lands in her possession situated in R.S.No.69 and 74 of Nadakuduru village of Chellapalli Mandal, Krishna District
admeasuring Ac.4.09 cents without following due process of law is arbitrary and illegal.

It is not in dispute that the land in question belongs to Sri Pudeswara Swamy Temple, Nandakuduru village. It is stated that the petitioner's father was granted leasehold rights in respect of the said land and on his death, the petitioner has been continuing as lessee from the year 1993 onwards. While so, in terms of the statutory Rules made under Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987(for short 'the Act') the Assistant Commissioner of Endowments passed an order dated 22-08-2005 holding that the petitioner is not a landless poor person and that she is not entitled to the benefits under Sub-section (2) of Section 82 of the Act. Admittedly, the said order has become final.

Thereafter, open auction was conducted by the temple for grant of leasehold rights in respect of the land in question in which the 4th respondent was declared as the successful bidder.

The petitioner does not dispute the said fact, however, contends that she is continuing in possession of the lands in question and since crops like Banana, sugarcane and etc., raised by her are standing on the land she cannot be dispossessed without following

the procedure as contemplated under the Act. It is alleged that the 3rd respondent has been interfering with the possession and enjoyment of the petitioner and taking steps to evict the petitioner highhandedly. Hence, this writ petition.

I have heard the learned Counsel for both the parties.

The learned Counsel for the petitioner contended that the petitioner who is a tenant holding over cannot be dispossessed without following the procedure prescribed under Section 83 of the Act.

I do not find substance in the above contention. A careful reading of the provisions of Chapter-XI of the Act read with Rules made under G.O.Ms.No.379, dated 11-3-2003 make it clear that once the lease is cancelled by virtue of Section 82(1) of the Act, the Executive Officer of the Temple is entitled to take possession following the procedure prescribed under Sections 84 to 86 of the Act by taking the police assistance as may be necessary.

It was made clear by this Court in ***N.Mallakanti v. Chennakesava Swamy Temple, Gargeyapuram village, Kurnool***[1] that in such cases, the temple is not required to approach the jurisdictional Deputy Commissioner of Endowments for an order to remove the encroachments.

It is also relevant to note that in the case on hand admittedly the petitioner's claim as landless poor person was rejected long back and subsequently, the leasehold rights of the land were also put to auction in which the 4th respondent was declared as the successful bidder. Hence, the Mandamus as prayed for cannot be granted at this stage.

The writ petition is misconceived and the same is accordingly dismissed. No costs.

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G. ROHINI, J

Date: 18-07-2007

KLP

Issue c.c. by today
B/o
klp

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[1] 2004(2) ALD 148